

STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

In re: Lloyd L. Thompson, III, M.D.

Docket No. MPC 85-0802

STIPULATION AND INTERIM CONSENT ORDER

NOW COME Lloyd L. Thompson, III, M.D. (Respondent), and the State of Vermont, by and through Attorney General William H. Sorrell and undersigned counsel, and agree and stipulate as follows:

1. Lloyd L. Thompson, III, M.D., Respondent, a family practice physician, holds Vermont Medical License Number 042-0004895, issued on February 20, 1973. Respondent holds privileges at Northeastern Vermont Regional Hospital, St. Johnsbury, Vermont.
2. Jurisdiction vests with the Vermont Board of Medical Practice (Board), pursuant to 26 V.S.A. §§ 1353, 1354, & 1398 and 3 V.S.A. §§ 809 & 814(c).

I. Background.

3. Respondent acknowledges that this matter was brought to the attention of the Vermont Board of Medical Practice on August 20, 2002 regarding his care of a patient (hereinafter referred to as "Patient A") at Northeastern Vermont Regional Hospital. Respondent acknowledges that he has read the notice from the hospital to the Board and has responded in writing to the Board of Medical Practice regarding this matter. Respondent has cooperated fully with the Board during its ongoing investigation of this matter. Northeastern Vermont Regional Hospital also has cooperated fully with the Board during its ongoing investigation of this matter.

4. The notice to the Board in this matter states that Respondent administered the paralytic drug Norcuron to Patient A at Northeastern Vermont Regional Hospital in late-summer 2002. The patient, an elderly individual, while under Respondent's care came to be considered terminally ill and near the end of life. The notice to the Board alleges that Respondent in caring for Patient A administered the drug Norcuron to the patient under circumstances warranting review by the Board.

II. Administration of Neuromuscular Blocking Agent to Patient.

5. The drug Norcuron is described by Physicians' Desk Reference (PDR) as a "nondepolarizing neuromuscular blocking agent possessing all of the characteristic pharmacological actions of this class drugs (curariform)." Physicians' Desk Reference at 2280 (55th ed. 2001). A neuromuscular blocking agent is a drug that causes muscle paralysis by blocking transmission of nerve stimuli to muscles. Taber's Cyclopedic Medical Dictionary at 1444 (19th ed. 2001). The PDR identifies the indications and usage of Norcuron as being "an adjunct to general anesthesia, to facilitate endotracheal intubation and to provide skeletal muscle relaxation during surgery or mechanical ventilation." PDR at 2280.

6. During the late-summer 2002 hospitalization Patient A was intubated due to respiratory failure. Subsequently, unsuccessful attempts were made to wean Patient A from mechanical ventilation. Ultimately, the patient was removed for a final time from respirator support (extubated), with the consent of the family and pursuant to the patient's wishes. Respondent has written to the Board that on the day of death the patient "was begun on terminal sedation with morphine, versed, and norcuron." Hospital records indicate that before and after extubation Patient A was sedated with doses of Versed and morphine on

Respondent's orders. Hospital records indicate that Respondent then gave Patient A 10 mg of Norcuron. Within minutes the patient's breathing ceased, and Patient A died.

7. The use of Norcuron, a neuromuscular blocking agent, in "end of life care" raises serious ethical concerns and questions regarding compliance with the medical standard of care. It is generally accepted that palliative care of dying patients is intended to alleviate the patient's pain and suffering. The Physicians' Desk Reference does not recognize the use of Norcuron as a palliative in the care of patient in pain.

8. The State's preliminary investigation of the facts and circumstances surrounding the death of Patient A has raised significant concerns as to whether the administration of Norcuron (and the dosages of other drugs contemporaneously administered) to the patient was medically necessary, consistent with prevailing medical ethics, and appropriate to the physician's responsibility for the protection and preservation of life.

9. Respondent has denied any intent to shorten the life of Patient A. He has acknowledged that "the use of neuromuscular agents to block breathing" at the end of a dying patient's life raises important ethical questions for the medical profession.

10. The State of Vermont submits and Dr. Thompson agrees that the circumstances involved in this matter raise important ethical, legal, and medical concerns. Dr. Thompson recognizes the Board's responsibility to fully investigate this matter and he further stipulates and agrees that until the Board's investigation is complete he shall take the steps set forth below.

III. Agreement as to Interim Conditions of Licensure.

11. Dr. Thompson wishes to cooperate with the Board of Medical Practice with

regard to the above-captioned matter and recognizes the Board's obligation in all cases to act expeditiously to protect the public health, safety, and welfare. Respondent acknowledges that he has determined, knowingly and voluntarily, that he wishes to agree to the terms and conditions set forth below in recognition of the responsibility of the Vermont Board of Medical Practice to protect the health, safety, and welfare of the public.

12. Dr. Thompson acknowledges that he has had advice of counsel and is satisfied with such advice and related representation. Respondent agrees and understands that by executing this document he is waiving such rights as he may possess, at this time, to be served with formal charges, to challenge the jurisdiction and continuing jurisdiction of the Board in these matters, and to a public hearing. 26 V.S.A. § 1356; 3 V.S.A. §§ 809 & 814.

13. Based on the above, Dr. Thompson now voluntarily agrees, pending further proceedings or order of the Board of Medical Practice, pursuant to 26 V.S.A. §§ 1354, 1360, 1361 & 1398; and 3 V.S.A. § 814(c), effective immediately, to:

- (a) cooperate fully and in good faith with further investigation of this matter by the Board of Medical Practice;
- (b) accede to entry of an order by the Board of Medical Practice conditioning Respondent's license to practice medicine, as set forth herein, pending further proceedings or order of the Board;
- (c) accede to monitoring and review of his care of terminally ill or dying patients by the Medical Executive Committee of the Northeastern Regional Hospital or a similar monitoring/review mechanism, subject to prior approval by the Vermont Board of Medical Practice; agree to regular communication by such monitoring physicians with the Board of Medical Practice or its agents regarding his compliance with this agreement and/or any care of patients or prescribing for patients that may be contrary to the appropriate standard of care; agree to ensure such other reasonable arrangements as may be required for effective monitoring of Respondent's practice activities; it is understood that Dr. Thompson may have already taken steps consistent with this;

- (d) prepare and record a detailed written treatment plan for the care of all his patients known to be dying or terminally ill (or likely to become so) for care of pain of each such patient, and written prescribing plans for each patient for monitoring/review, consistent with subsection (c), above;
- (e) agree to cease and desist immediately from the practice of medicine if the monitoring and review mechanism required above in subsections (d) and (e) is not established or fails to carry out its responsibilities;
- (f) cease and desist from any and all use in treating patients of the drug Norcuron, its pharmacological equivalents, and/or any and all drugs or formulations with paralytic effects other than for use in intubation of patients;
- (g) provide no care and engage in no conduct that could reasonably be construed as intended to hasten or cause the death of patients;
- (h) adhere to all terms and conditions set forth above and herein, regardless of the location where he may practice,¹ until relieved of such obligation by further order of the Board; see also Paragraph 15, below;

14. The parties agree that nothing contained herein shall limit the Board's authority to proceed in this matter, if deemed appropriate at a later date, pursuant to 26 V.S.A. §§ 1354, 1360, 1361 & 1398; 3 V.S.A. § 814(c) and other relevant authorities.

15. The parties agree that nothing contained herein shall limit Respondent's right to seek at a later date a formal specification of charges and to demand a hearing on the merits regarding these charges, pursuant to 26 V.S.A. §§ 1354, 1360, 1361 & 1398; 3 V.S.A. § 814(c) and other relevant authorities. Respondent agrees that no promises have been made to him as to final disposition of this matter. The parties agree that the statements contained in Paragraphs 5-10 are allegations that provide the background for this Order; and further, by his agreement to the terms and conditions of this interim Order, the Respondent does not admit

1. Respondent is known by the Board of Medical Practice to practice at the following locations: Northeastern Vermont Regional Hospital, St. Johnsbury; the Pines Rehabilitation and Health Center, Lyndonville; Caledonia Home Health Care, St. Johnsbury and Hardwick; and Corner Medical, Lyndonville.

or acknowledge the accuracy of the allegations for the purpose of any subsequent proceeding before the Board or elsewhere.

IV. Other Terms.

16. The parties agree that this Stipulation and Interim Consent Order shall be a public document, shall be made part of Respondent's licensing file, and may be reported to other licensing authorities. The parties agree that an order conditioning Respondent's license to practice medicine may be entered, as described herein, and pending further proceedings or order of the Board. Nothing herein is intended to limit Respondent's right at a later date to demand and receive a formal specification of charges, pursue discovery, to contest all charges against him, to present evidence or witnesses and experts on his behalf, and to require proof as to the allegations against him in a hearing before the Board.

17. This Stipulation and Interim Consent Order is conditioned upon its acceptance by the Vermont Board of Medical Practice. If the Board rejects any part of this document, the entire agreement shall be considered void. Respondent agrees to be bound by the terms and conditions of this Stipulation and Interim Consent Order pending further proceedings or order of the Board of Medical Practice. Respondent agrees that the Board of Medical Practice shall retain jurisdiction to enforce the terms and conditions of this Stipulation and Interim Consent Order until it is modified or he is relieved of its terms and conditions. Respondent agrees that failure by him to abide by any material terms and conditions of this Stipulation and Interim Consent Order may constitute unprofessional conduct under 26 V.S.A. § 1354(25) and may subject Respondent to such disciplinary action as the Board may deem appropriate, following evidentiary proceedings.

18. The parties therefore jointly agree that should the terms and conditions of this Stipulation and Interim Consent Order be deemed acceptable by the Board of Medical Practice, the Board may (a) enter an order conditioning Respondent Thompson's license to practice medicine as described herein; and (b) continue such order until further proceedings or order of the Board.

Practice, the Board may (a) enter an order conditioning Respondent Thompson's license to practice medicine as described herein; and (b) continue such order until further proceedings or order of the Board.

Dated at Montpelier, Vermont, this 2nd day of October ~~September~~ 2002.

WILLIAM H. SORRELL
ATTORNEY GENERAL

by:

James S. Arisman
JAMES S. ARISMAN
Assistant Attorney General

Dated at Lyndonville, Vermont, this Second day of October ~~September~~ 2002.

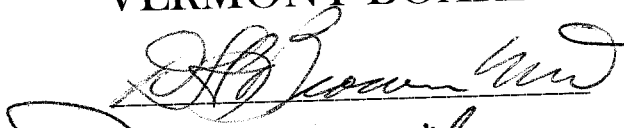
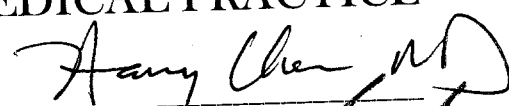
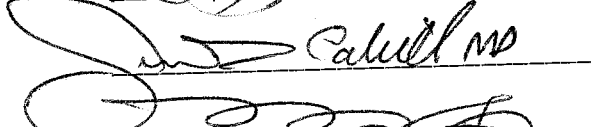
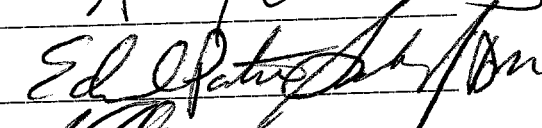
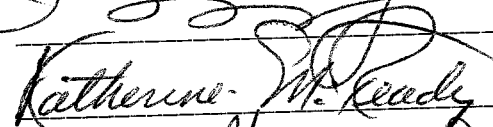

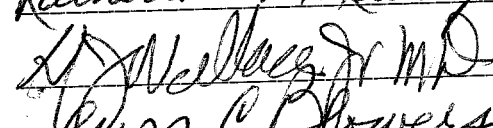
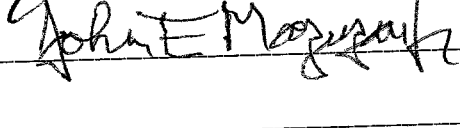
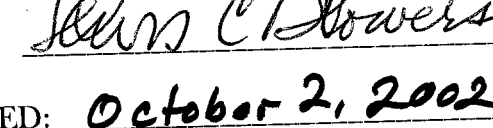
Lloyd L. Thompson, III
LLOYD L. THOMPSON, III, M.D.
Respondent

Dated at Montpelier, Vermont, this 2^d day of October ~~September~~ 2002.

Ritchie E. Berger, Esq.
RITCHIE E. BERGER, ESQ.
Counsel for Respondent

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

FOREGOING, AS TO MEDICAL LICENSE OF
LLOYD L. THOMPSON, III, M.D., APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

DATED: October 2, 2002

ENTERED: October 2, 2002

JSA: THOMPSON STIPULATION IV; 10/02 (NOT FULLY EFFECTIVE UNTIL APPROVED BY BOARD)